

12 May 1978

78-5365/1

MEMORANDUM FOR : Deputy to the DCI for Resource Management

SUBJECT : DCI Guidelines for Responding to Inquiries
from Congressional Committees

MR
OLC #78-1348/4

Attached are our proposed changes to the guidelines for responding to inquiries from congressional committees. Basically, our position is:

- presentations should be made in response to specific queries regarding specific countries or services and should not constitute a compendium of liaison relationships. Information to be given should be limited to the identity of the country and the service, the agency (agencies) working with that service, and the general purpose of the liaison relationship.
- responses to congressional inquiries concerning liaison agreements and arrangements (with the exception of those qualified as agreements under the Case/Zablocki Act) should be answered orally and off the record.
- the formulation of policy regarding the provision of information on liaison relationships should not be undertaken without consultation with our oversight committees. The very purpose of these guidelines is to protect intelligence liaison relationships and to avoid confrontation with the Congress. Prior consultation would ensure that the Community interests in protecting these relationships are emphatically made known to the committees before opportunities for confrontation surface.

Frank C. Carlucci
Deputy Director, CIA

Attachment

SECRET

GENERAL COMMENTS

The thrust of the draft guidelines is in the right direction. They could, however, be strengthened somewhat in the introductory paragraphs if greater emphasis were given to the naturalness of many of these intelligence arrangements, pointing out that they stem from politico-military alliances which we enjoy with close allies. The point could also be made that these relationships not only contribute to the effectiveness of U.S. intelligence activities, but that shared information and perspectives help increase common views and understandings between the U.S. and other countries.

It should also be underscored in the introductory paragraphs that most allied services expect intelligence relationships with U.S. intelligence organizations to be treated as sensitive and not discussed publicly. Although we may believe intelligence should be more out in the open, few, if any, of those tied to us through intelligence relationships share this feeling. They live in fear that the U.S. Intelligence Community will compromise their sources and methods. They also are concerned that we will describe to non-intelligence U.S. officials the names and activities of their intelligence organizations whose existence in many cases is not officially acknowledged in their country. In short, they do not want us telling Congress what they do not tell their own legislators.

SECRET

Cover Memorandum

a. Page 1, Paragraph 1 - Substitute the word "consider" for the word "approve" in line 1.

b. Pages 2-3, Paragraph 3, Recommendation - Delete paragraphs a, b, and c, substituting the following:

That the NFIB working group on behalf of NFIB principals formally propose that you as DCI consider establishment of the attached draft guidelines after you and/or your legislative counsel consults with the intelligence committees. Ultimately, you would present the guidelines to the NFIB, and this presentation could be oral if necessary for security reasons.*

The DCI should not present a position formally, orally, or otherwise to the NFIB until such time as the procedures are fully cleared with the oversight committee and, if necessary, with the President.

c. Page 2, Paragraph e - This paragraph should be rephrased as follows:

The Working Group believes that these guidelines are consistent with your statutory responsibility to protect intelligence sources and methods from unauthorized disclosure. These guidelines are designed to implement your responsibility under Executive Order 12036 to formulate policies concerning intelligence arrangements with foreign governments and to act as the Intelligence Community's principal spokesman to the Congress, and to implement the responsibility of senior officials of the Intelligence Community to protect intelligence and intelligence sources and methods consistent with guidelines from the Director of Central Intelligence.

*This procedure will prevent the circulation of a formal document setting forth those details concerning foreign intelligence arrangements which we intend to reveal to the Congress. If such a document were to leak, this would cause problems in the foreign intelligence security services.

SECRET

Guidelines

a. Page 2, Paragraph 3 - The last line of this paragraph states that "[i]nquiries concerning intelligence arrangements and relationships with foreign services received by any organization of the Intelligence Community from committees of Congress other than the four listed above should be referred to the Director of Central Intelligence."

We are uncertain as to what is intended by this provision. Is the DCI to suggest that the information be provided to the oversight committees for further release to the committee originating the inquiry? Or is the DCI to provide the information to the oversight committees and request them to take the heat from the committee originating the request? While these might be admirable objectives, the oversight committees, particularly the HPSCI, have shown extreme reluctance to undertake limiting the jurisdiction of other committees and, therefore, this proposal may be somewhat unrealistic.

b. Page 2, Paragraph 4 - Add to the end of the introductory section the following sentences:

If the activity involves another intelligence agency, that agency should be consulted. All responses should be coordinated with the DCI.

c. Page 3, Paragraph b - Insert ", including those described in paragraph a" after the words "or relationships" in the second line, and the phrase "and arrangements or relationships with any foreign governmental entity" before the words "involving clandestine intelligence" in the third line. The language of paragraph b is inconsistent with the full extent of the responsibilities of the DCI under Executive Order 12036 as well as [] Under the Order, the DCI is responsible for formulating policies concerning all intelligence arrangements with foreign governments and for coordinating all intelligence relationships with the intelligence or internal security of foreign governments.

SECRET

- d. Page 3, Paragraph 4 - Add a paragraph c to read as follows:

Inquiries received by an entity of the Intelligence Community concerning agreements with foreign intelligence authorities on satellite intelligence should be referred to the DCI via the SIO of CIA.

- e. Page 3, Paragraph 5 - Add the following as the final sentence:

Oral understandings relating to exchange of certain information and to activities on intelligence objectives of mutual concern which change from time to time as needs and interests change should not be construed as arrangements or agreements.

- f. Page 3, Paragraph 6 - Place a comma after the word "arrangements", delete "and", and insert "and agreements" after "relationships" in line 2. Delete the word "agreements" in line 3 and substitute "not reportable under the Case/Zablocki Act." These changes are recommended to clarify that arrangements, relationships and agreements which are not related to the Case/Zablocki Act are to be treated uniformly. In addition add the following sentence to this paragraph:

The off-the-record presentation should not encompass a listing of all of our arrangements, but should be restricted to responses to requests for information about specific countries or services.

Delete "relevant" and substitute "necessary" in paragraph 6a(3). In paragraph 6a(4), begin paragraph with the phrase; "Where requested and necessary," and substitute "description" for "summation"; "summation" is too comprehensive. Also, rather than have a description of the information acquired, paragraph (4) should call only for purpose, i.e., the purpose of the intelligence arrangement. This would prevent going into detail on information received

SECRET

from foreign intelligence services. Insert the following phrase in paragraph 6b, line 2:

. . . the need to protect sensitive intelligence liaison relationships as foreign intelligence sources and methods . . .

g. Page 4, Paragraph 6c - Delete this paragraph or add the sentence:

The DCI will advise as to the proper course to follow after consultation, when necessary, with the requesting committee and with the President.

h. Page 5, Paragraph 7 - Delete the phrase ", or if the reporting department or agency considers it unable to remain within the guidelines." Substitute the following sentences:

The DCI and heads of departments and agencies should designate individuals to act as working-level contact points for ad hoc consideration of reporting problems. Such individuals will comprise a working-level group to discuss reporting problems. In the event the problem cannot be resolved at the working level, the head of the organization responsible for the reply should consult with the Director of Central Intelligence before any final response is provided.

Technical Comments

a. Cover Memorandum, Page 2, last sentence in paragraph d - It is our understanding that DOD has replied to the February request. This sentence should be modified to acknowledge this fact and to outline the format of the DOD response.

SECRET

b. Guidelines, Page 1, Paragraph 2 - Delete "P.L. 92-403" within the parentheses in the third line and insert "(1972)" after "1 U.S.C. 112b." Moreover, the Case/Zablocki Act, as amended last summer, requires that agencies report international agreements to the Secretary of State for transmittal to the Congress within 60 days and the draft should be changed to reflect the amendment. Insert the words "which provides" after the words "the provision of the Act" in line 7 of paragraph 2. Strike the word "each" from line 2 of page 2 and add "s" to the word "arrangement" immediately following.

c. Guidelines, Page 3, Paragraph a - What is a "sponsoring" organization? An agency which is responsible for the subject matter of the arrangement or one which is responsible for concluding the arrangement?

d. Guidelines, Page 3, Paragraph 5, end of last sentence - The word "internal" should be changed to "international."

e. Guidelines, Page 4, Paragraph 6c - Should this paragraph, if it stays in, be limited to activities of a foreign service undertaken on behalf of the United States Government?